

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAMES STORK,

Plaintiff,

v.

Case No. 04-73363
Honorable Patrick J. Duggan

JO ANNE B. BARNHART,
COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

OPINION AND ORDER

At a session of said Court, held in the U.S.
District Courthouse, Eastern District
of Michigan, on July 7, 2005.

PRESENT: THE HONORABLE PATRICK J. DUGGAN
U.S. DISTRICT COURT JUDGE

Plaintiff applied for Social Security Disability Insurance Benefits on August 12, 1997, alleging that he became disabled due to chronic asthma, bronchitis, and other physical and mental problems on March 15, 1995. The Social Security Administration (the “agency”) denied Plaintiff benefits initially and on reconsideration. Plaintiff then requested a hearing before an administrative law judge (“ALJ”). Plaintiff appeared with counsel and testified at a hearing before ALJ John A. Ransom on February 9, 2000. A vocational expert also testified at the hearing.

After hearing the evidence and reviewing documents submitted by Plaintiff, ALJ

Ransom concluded that Plaintiff was not disabled under the Social Security Act. The ALJ found that although Plaintiff was incapable of performing his past work, Plaintiff retained the capacity to perform light, sedentary work provided the work was in a clean air environment with no temperature extremes and was low stress, simple, repetitive, involved only limited contact with the public and co-workers, and did not require lifting of more than 20 pounds. (R. at 30, 332). The Appeals Council declined to review the ALJ's decision. On August 30, 2004, Plaintiff commenced this action for judicial review of the Commissioner's decision pursuant to 42 U.S.C. § 405(g).

Both parties subsequently filed motions for summary judgment, which this Court referred to Magistrate Judge Virginia M. Morgan. On April 18, 2005, Magistrate Judge Morgan filed her Report and Recommendation (R&R) in which she recommends that this Court grant Defendant's motion for summary judgment and deny Plaintiff's motion for summary judgment. At the conclusion of the R&R, Magistrate Judge Morgan advises the parties that they may object and seek review of the R&R within ten days of service upon them. Neither party has filed objections to the R&R.

The Court has carefully reviewed the R&R and concurs with the conclusions reached by Magistrate Judge Morgan.

Accordingly,

IT IS ORDERED, that Plaintiff's Motion for Summary Judgment is **DENIED**;

IT IS FURTHER ORDERED, that Defendant's Motion for Summary Judgment
is **GRANTED**.

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

Copies to:
Mikel E. Lupisella, Esq.
AUSA Derri Thomas
Magistrate Judge Virginia M. Morgan